IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLN.NO.1340 OF 2006
IN
APPEAL NO. OF 2006

The State of Maharashtra ..Applicant

Vs.

Sameer Shariff Shaikh
and 2 Ors. ..Respondents

...

Mrs.A.S.Pai APP for Applicant-State

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : NOVEMBER 29, 2007

P.C.

1. The Applicant-State has filed this application for leave to file appeal against the judgment and order dated 20.12.2005 passed by the learned Additional Sessions Judge, Pune in Criminal Appeal No.170 of 2003. It may be stated here that the Respondents who are original accused nos.1, 2, 3 and 6 came to be convicted under Section 498-A r.w. 34 of IPC by judgment and order dated 12.5.2003 by the learned Judicial Magistrate, F.C. Court No.6, Pune in R.C.C.No. 192 of 2001. They were sentenced to S.I. till rising of the Court. Being aggrieved by the said conviction, they preferred

Appeal No. 170 of 2003 wherein they came to be acquitted.

2. Heard the learned APP for the Applicant-State. I have perused both the judgments passed by the Courts below and the evidence produced by the learned advocate for the Applicant-State.

3. The complainant P.W.1 Sameena Shaikh was married to Respondent No.1 on 25.2.1999. On 4.11.2001, the complainant P.W.1 Sameena lodged the complaint against the Respondents-accused alleging mental and physical harassment and cruelty to her on account of demand for money and articles not being met by her parents. It is seen that complaint Exhibit 25 was lodged by Sameena six months after she received ‘Talaq’ from Respondent No.1. It is seen that P.W.1 Sameena is an educated girl. Despite this, she has not lodged the complaint about any harassment and illtreatment at the hands of the accused persons till six months had passed after her divorce. She has not explained delay in lodging the complaint. The evidence of complainant Sameena does not inspire confidence as she has not lodged any complaint

against any of the respondents till she was divorced by her husband. Even after the divorce, complaint has not been immediately filed but the complaint came to be lodged six months after the divorce had occurred. The main ground for acquitting the Respondents, is that there is inordinate delay in lodging the complaint by the complainant and the said delay has not been explained. Looking to the evidence on record, I am of the opinion that the view taken by the learned Sessions Judge is a reasonable and possible view.

4. It is well settled that if the view of acquittal could have been reasonably arrived at then the mere circumstance that the appellate Court would have taken a different view, would be no ground to interfere. In this connection, there is no dearth of authorities but to eschew prolixity, I am referring to only two of them i.e. **AIR 1971 S.C. 66 Khedu Mohton and Ors. Vs. State of Bihar and C. Anthony Vs. K.G.Raghavan Nair (2003) 1 SCC 1.** In the case of **C.Anthony**, the Supreme Court has observed that unless the findings of the Court below are perverse or contrary to the material on record, the High Court cannot in appeal substitute

its findings, merely because another contrary opinion was possible on the basis of material on record. As stated earlier, the view taken by the learned Sessions Judge is a reasonable and possible view, hence, no interference is called for.

5. In this view of the matter, application for leave to appeal is rejected. Consequently, appeal stands dismissed.

[SMT. V.K.TAHILRAMANI,J.]